UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,949	05/02/2006	Andreas Michl	01012-1024	4083

30671   7590   09/29/2009
DITTHAVONG MORI & STEINER, P.C.
918 Prince St.
Alexandria, VA 22314

EXAMINER
MCLEOD, MARSHALL M

ART UNIT	PAPER NUMBER
2457	

MAIL DATE	DELIVERY MODE
09/29/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>15 July 2009</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-9 and 12</u> is/are pending in the application.
     4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-9 and 12</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
     a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-9 and 12 are pending in this application.

Claim Objections

2.   Claim 1 is objected to because of the following informalities: (line 17) "outputting of

structural units of **the selected part of the end-system message**", lacks antecedent basis.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making
> and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it
> pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode
> contemplated by the inventor of carrying out his invention.

4.   Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the

written description requirement. The claim(s) contains subject matter which was not described

in the specification in such a way as to reasonably convey to one skilled in the relevant art that

the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 as amended discloses at (lines 10-13) **"displaying the whole message-structure of the**

reference message and the generated end- system message, selecting an arbitrary structural

unit of the reference message, selecting an arbitrary structural unit of the end-system

message". Nowhere within applicant's specification, is the quoted **"displaying the whole**

message-structure of the reference message and the generated end- system message"

disclosed. Further, applicant's specification does not make clear that the selection made of the

structural unit is arbitrary as applicant's within their specification are referring to two specific

messages (i.e. message structural units). Further clarification is required.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

6.   **Claims 1-9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over**

Birsan et al. (Patent No US 6,848,078 B1), hereinafter Birsan, in view of Tuma et al (A

hands-on approach to teaching the basic OSI reference model, Journal: International

Journal of Electrical Engineering Education, April 2000), hereinafter Tuma.

7.   With respect to claim 1, Birsan discloses a method for determining deviations of an end-

system message of modular structure generated in a hierarchically-structured end system of a

telecommunications device (Abstract, lines 1-3) by comparison with a reference message

(Column 5, lines 15-27) comprising the steps of: reading in a reference message (Column 8, lines

43-49), reading in an end-system message (Column 9, lines 10-17) generated in the end system,

performing a message-structure analysis of the reference message (Column 8, lines 43-49),

performing a message-structure analysis of the generated end-system message (Column 9, lines

10-17), displaying the whole message-structure of the reference message and the generated end-

system message (Column 2, lines 6-7), determining deviations of the selected structural unit of

the end-system message by comparison with the selected structural unit of the reference message

(Column 4, lines 37-57) based on a structure and values for parameters of structural units

(Column 6, lines 30-41 and Column 7, lines 3-12; also See Figure 3, item (42) and (52)), and

outputting of structural units of the selected part of the end-system message deviating from the

reference message indicating values of parameters of respective structural units (Column 6, lines

30-41 and Column 7, lines 3-12; also See Figure 3, item (42) and (52)) of the selected structural

unit end-system message (Column 6, lines 43-47; Column 8, lines 58-59; also See Figure 3)

generated in the end system (Column 9, lines 10-17).

Birsan does not disclose that the device is structured and based on an OSI reference model;

containing information of different layers according to the OSI reference model; selecting an

arbitrary structural unit of the reference message, selecting an arbitrary structural unit of the end-

system message.

However, Tuma discloses that the device is structured and based on an OSI reference model

(Paragraph 1, Introduction, Page 1, of the NPL document; also see Figure 1.); containing

information of different layers according to the OSI reference model (Paragraphs 1-6; Pages 1-7,

of the NPL document, which discloses in detail what information each layer consists of);

selecting an arbitrary structural unit of the reference message, selecting an arbitrary structural

unit of the end-system message (Paragraph 3, The Data Link Layer, Page 3; subparagraph 5).

It would have been obvious have been obvious to the person of ordinary skill in the art at the time of invention to combine the teachings of Birsan with the teachings of Tuma in order to provide the user with a more detailed comparison of messages and files by comparing the makeup of each message or file.

8.   With respect to claim 2, Birsan discloses identical structural units of the reference message and of the end-system message generated in the end system output, wherein the structural units of the end-system message deviating from the reference message are output in a manner graphically distinguishable from the identical structural units (Column 6, lines 14-24).

9.   With respect to claim 3, Birsan discloses structural units only present in the reference message are output in a manner graphically distinguishable from structural units other than the structural units only present in the reference message (Column 6, lines 14-24).

10.   With respect to claim 4, Birsan discloses structural units only present in the generated end-system message are output in a manner graphically distinguishable from structural units other than the structural units only present in the generated end- system message (Column 6, lines 14-24).

11.   With respect to claim 5, Birsan discloses the structural units at least of the end-system message are output in a manner corresponding to a modular construction (Column 2, lines 55-61).

12.   With respect to claim 6, Birsan discloses the outputting is provided in a first region of a

screen display (Column 6, lines 17-21; see also Figure 3).

13.   With respect to claim 7, Birsan discloses the structural units of the end-system message

are output in a second region with an indication of information regarding a data stream of the

end-system message, wherein structural units deviating from the reference message are output in

a manner distinguishable from structural units of the second region other than the structural units

deviating from the reference message (Column 2, lines 6-17).

14.   With respect to claim 8, Birsan discloses the structural units of the end-system message

are output in a third region with an indication of information of a data stream of the reference

message, wherein structural units deviating from the reference message are output in a manner

distinguishable from structural units of the third region other than the structural units deviating

from the end-system message (Column 2, lines 6-17).

15.   With respect to claim 9, Birsan discloses a digital storage medium with electronically-

readable control signals, configured to co-operate with a programmable computer or digital

signal processor (Column 9, lines 18-25).

16.   With respect to claim 12, Birsan discloses computer software product with program-code

means stored on a machine-readable data carrier, for the implementation of the method according

to claim 1, when the software is run on a computer or a digital signal processor (Column 9, lines 26-34).

Response to Arguments

17.   Applicant's arguments with respect to claims 1-9 and 12 have been considered but are not persuasive.

18.   With respect to applicant's argument on page 8 of the instant arguments. Applicant's contend that prior art Tuma et al. does not "discuss the selection of an arbitrary structural unit of such a message". The examiner respectfully disagrees and states to applicant's that on (Page 7; Paragraph 1) Tuma discloses "…selects the message that has the smallest granted-to-requested bandwidth ratio ...". Furthermore, the examiners states to applicant's that **"an arbitrary structural unit of a message"** was never defined, specified nor explained. The term is also broad as an arbitrary structural unit can be anything that constitute the message or its make-up and as such opens itself up to be interpreted broadly and reasonably by the examiner as indicated in the above cited and quoted excerpt from the prior art, which is to be construed in conjunction with the above rejection of the claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARSHALL MCLEOD whose telephone number is (571)270-3808. The examiner can normally be reached on Monday - Thursday 6:30 a.m-4:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ramy M Osman/
Primary Examiner, Art Unit 2457

/Marshall McLeod/
Examiner, Art Unit 2457
9/22/2009